Bureau of Quality Improvement Services (BQIS)

Quality Communication

BUSINESS NAMEQIS

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Introduction

The Bureau of Quality Improvement Services (BQIS) is charged with assuring the quality of services being delivered in DDRS's Medicaid Home and Community Based Waiver Programs. BQIS fulfills this responsibility by conducting provider compliance reviews and complaint investigations. This *Quality Communication* provides an analysis of combined findings from these review activities conducted October 1, 2011 through September 30, 2012.

As with previous communications, it is expected that providers will utilize this information to ensure alignment of their practices, procedures and files with the outlined regulations/ assurances.

Provider Compliance Reviews (Compliance Evaluation and Review Tool)

The Compliance Evaluation and Review Tool (CERT) was designed to capture provider compliance in the four focus areas listed below. These focus areas capture the intent of Indiana Administrative Code (IAC) 460, Article 6, the Division of Disability and Rehabilitative Services (DDRS) Policies, and the Home and Community Based Services (HCBS) waiver applications monitored through DDRS.

1. The provider meets qualifications for waiver services being delivered;
2. The provider has policies and procedures to ensure the rights of individuals, to direct appropriate services, and to support and manage employees;
3. The provider maintains employee information confirming key health, welfare and training issues; and
4. Quality assurance and quality improvement.

Bureau of Quality Improvement Services (BQIS) surveyors evaluate compliance within these focus areas by reviewing provider documentation guided by the 52 Indicators and associated Probes. A copy of the CERT Guide can be found through the following link: http://www.in.gov/fssa/files/CERT_Guide_-_10_1_11_final.pdf.

As noted during the previous CERT Communication effective 10/01/2011, BQIS discontinued reviewing Providers of Day Services (i.e., Adult Day Services; Community Based Habilitation; Facility Based Habilitation; Facility Based Support Services; Pre-Vocational Services; Supported Employment; and Workplace Assistance) as well as other services that were reviewed and approved as part of the accreditation process.

While there have been 276 CERT reviews conducted since initiation of this process in 2010, this report will focus on the 133 reviews conducted 10/01/2011 through 09/30/2012. During this period, 119 of the 133 reviews had negative findings. To facilitate identification of deficiencies and highlight opportunities for provider quality improvement, results will be grouped

Provider Compliance Reviews (Cont.)

broadly by the types of services delivered. Since many providers deliver multiple services, each service will be tabulated independent of the others.

Clinical Services

In the area of clinical services, providers of **Level 1 Behavior Management (HSPP)** received the highest average negative findings per review (Table 1). Other clinical service provider types receiving an average of more than seven negative findings per review included **Speech and Language Therapy, Level 2 Behavior Management (Basic)**, and **Occupational Therapy**. Service specific Indicators and Probes most unmet during CERT reviews are also provided (Table 2).

Table 1: CERT results for Clinical Service Providers (10/01/2011 – 09/30/2012)

SERVICE	CODE	TIMES REVIEWED	NEGATIVE FINDINGS (i.e., Indicators not met)	AVERAGE NEGATIVE FINDINGS PER REVIEW
Behavior Management – Level 1	BG1O	38	343	9.0
Speech and Language Therapy	SPTH	9	75	8.3
Behavior Management – Basic	BMGO	66	512	7.8
Occupational Therapy	OCTH	7	52	7.4
Physical Therapy	PHTH	6	39	6.5
Recreational Therapy	RETH	18	98	5.4
Music Therapy	MUTH	23	110	4.8

In addition to the DDRS Policy: Provider Conflict of Interest, providers are encouraged to reach out to their local Human Rights Committees for direction if a question about a possible conflict arises.

It is the responsibility of the Level 1 Behavioral Clinician (HSPP) of record to provide appropriate supervision to any associated Level 2 Behavioral Clinician operating under their license. It should be noted that the Level 1's signature on a BSP serves as acknowledgement of this relationship and signifies that the Licensed Psychologist (supervising HSPP) accepts the content of the BSP as valid and appropriate for the waiver Participant.

While licensed and certified providers (e.g., licensed psychologist) must operate within the ethical guidelines of their profession (e.g., American Psychological Association), this does not exempt them from also complying with state and federal regulations, policies, and procedures. As clinical providers are reviewed with the CERT, inadequate policies and procedures are corrected through the remediation process

Inadequate policies and procedures do not necessarily lead to deficient practice. However, since these policies and procedures are utilized in staff training, an increased risk does exist that these employees will not practice in accord with important Indiana regulations.

Provider Compliance Reviews (Cont.)

Table 2: Indicators and Probes most unmet for providers of clinical services

Most Unmet Indicators and Probes

II.A.2 Written procedures for prohibiting violations of individual rights: Does the provider have written policies and procedures that prohibit its employees/agents from violating individuals' rights per 460 IAC 6-9?

Percent of Reviews Unmet by Service Type

BG10	BMGO	MUTH	OCTH	PHTH	RETH	SPTH
68.4%	**56.1%**	**43.4%**	**57.1%**	**50.0%**	**50.0%**	**66.7%**

Probes Most Likely Unmet for Providers of Clinical Services

The provider will produce written policies and procedures which: include prohibitions against:

A prohibition against Emotional/verbal abuse

A requirement to Conduct and participate in an investigation of an alleged violation of an individual's rights or reportable incident

II.A.15 Incident Reporting: Does the provider have an incident reporting policy that complies with 460 IAC and DDRS policies?

Percent of Reviews Unmet by Service Type

BG1O	BMGO	MUTH	OCTH	PHTH	RETH	SPTH
60.5%	**56.1%**	**43.5%**	**57.1%**	**50.0%**	**50.0%**	**66.7%**

Probes Most Likely Unmet for Providers of Clinical Services

Including that the provider will file an incident report within 24 hours of initial discovery. Initial incident report should include: *description of the incident, description of circumstances and activities, any injuries, description of immediate actions taken as well as those to be taken, and a list of each person involved with description and title.*

Include that the provider will report use of any physical or mechanical restraint regardless of: Planning, human rights committee approval, and informed consent.

II.A.10 Conflicts of Interest & Ethics: Does the provider have a conflict of interest and code of ethics policy that meets 460 IAC and DDRS requirements?

Percent of Reviews Unmet by Service Type

BG1O	BMGO	MUTH	OCTH	PHTH	RETH	SPTH
65.8%	**48.5%**	**39.1%**	**71.4%**	**66.7%**	**44.4%**	**77.8%**

Probes Most Likely Unmet for Providers of Clinical Services

Prohibitions against giving gifts to state employees, special state appointees, the spouse or un-emancipated child of an employee, the spouse or un-emancipated child of a special state appointee, an individual potentially receiving services

Ethical safeguards and guidelines limiting the provision of gifts to an individual receiving service from the provider and any guardian or family member of an individual receiving service from the provider

II.A.6 Written Personnel Policy: Does the provider have a written personnel policy that contains all of the items required in 460 IAC and DDRS related policies?

Percent of Reviews Unmet by Service Type

BG1O	BMGO	MUTH	OCTH	PHTH	RETH	SPTH
78.9%	**45.5%**	**43.5%**	**71.4%**	**66.7%**	**55.6%**	**66.7%**

Probes Most Likely Unmet for Providers of Clinical Services

A prohibition against employing or contracting with a person who has been convicted of any of the following offenses (felony):

II.A.6.4.g - Criminal conversion

II.A.6.4.h - Criminal deviate conduct

Provider Compliance Reviews (Cont.)

Home Based Services

In the area of home based services, providers of **Residential Habilitation** received the highest average negative findings per review (Table 3). Providers of **Structured Family Caregiver** and **Respite** services received slightly less average negative findings. Service specific Indicators and Probes most unmet during CERT reviews are also provided (Table 4).

Table 3: CERT results for Home Based Service Providers (10/01/2011 – 09/30/2012)

SERVICE	CODE	TIMES RE-VIEWED	NEGATIVE FINDINGS (i.e., Indicators not met)	AVERAGE NEGATIVE FINDINGS PER REVIEW
Residential Habilitation	RHS	35	265	7.6
Structured Family Caregiver	AFO	13	93	7.2
Respite	RSPO	34	235	6.9

It is the responsibility of all providers (and their staff) to assure the health and safety of those we serve. One way that this occurs is through the reporting of incidents. Independent of service being delivered, the provider responsible for an individual at the time of the occurrence (or discovery) of a reportable incident shall submit an incident report. In addition to the provider's mandatory reporting, any other person may submit an incident report associated with any reportable incident. DDRS Policy: Incident Reporting & Management; 460 IAC 6-9-5 Incident Reporting.

Of incident reports filed during this annual period, 83.3% were reported within the required 24 hour period. While this number is suggestive of poor performance, a review of data by quarters shows clear improvement over time. During the most recent quarterly period (07/01/2012 - 09/30/2012), 92.7% of incidents were reported on time.

Providers of Structured Family Caregiver were found to have more inadequate policies and procedures than their Residential Habilitation and Respite counterparts.

Provider Compliance Reviews (Cont.)

Table 4: Indicators and Probes most unmet for providers of home based services

Most Unmet Indicators and Probes

II.A.9 Emergency Behavioral Supports: Does the provider have a policy that complies with 460 IAC and DDRS policies for addressing behavioral emergencies?

Percent of Reviews Unmet by Service Type

RBS (RH1O & RH2O)	AFO (AFO1, AFO2, & AFO3)	RSPO
60.0%	**61.5%**	**58.8%**

Probes Most Likely Unmet for Providers of Home Based Services

The provider will produce written policies and procedures which: include prohibitions against:

- Any agreed upon supports should be documented by the case manager and implemented as soon as possible, but no later than 30 days from the IST meeting
- A prohibition against use of any aversive technique including but not limited: Negative practice, overcorrection, visual or facial screening

II.A.15 Incident Reporting: Does the provider have an incident reporting policy that complies with 460 IAC and DDRS policies?

Percent of Reviews Unmet by Service Type

RBS (RH1O & RH2O)	AFO (AFO1, AFO2, & AFO3)	RSPO
54.3%	**61.5%**	**55.9%**

Probes Most Likely Unmet for Providers of Home Based Services

- Including that the provider will file an incident report within 24 hours of initial discovery. Initial incident report should include: *description of the incident, description of circumstances and activities, any injuries, description of immediate actions taken as well as those to be taken, and a list of each person involved with description and title.*

II.A. 7 Written Training Procedure: Does the provider have a written training procedure that contains all of the items required in 460 IAC and DDRS related policies?

Percent of Reviews Unmet by Service Type

RBS (RH1O & RH2O)	AFO (AFO1, AFO2, & AFO3)	RSPO
57.1%	**53.8%**	**55.9%**

Probes Most Likely Unmet for Providers of Home Based Services

A Provider's owners, directors, officers, employees, contractors, subcontractors or agents performing any management, administrative or direct service to an individual on behalf of a Provider company shall receive initial and at minimum annual training to include:

- DDRS incident reporting, including: DDRS's current policy on incident reporting; the Provider's incident reporting policies and procedures
- Respecting the dignity of an i**ndividual**

II.A.6 Written Personnel Policy: Does the provider have a written personnel policy that contains all of the items required in 460 IAC and DDRS related policies?

Percent of Reviews Unmet by Service Type

RBS (RH1O & RH2O)	AFO (AFO1, AFO2, & AFO3)	RSPO
51.4%	**61.5%**	**52.9%**

Probes Most Likely Unmet for Providers of Home Based Services

- A prohibition against employing or contracting with a person who has been convicted of any of the following offenses (felony): Criminal conversion, criminal deviate conduct
- A process for evaluating the job performance of each employee and/or agent that includes feedback from individuals receiving services from the employee and/or agent

Provider Compliance Reviews (Cont.)

Non-Direct Care Services

In the area of non-direct care services, providers of **Environmental Modification** received the highest average negative findings per review, with those delivering **Personal Emergency Response Systems** receiving the fewest. Service specific Indicators and Probes most unmet during CERT reviews are also provided (Table 6).

Table 5: CERT results for Non-Direct Care Service Providers (10/01/2011 – 09/30/2012)

SERVICE	CODE	TIMES REVIEWED	NEGATIVE FINDINGS (i.e., Indicators not met)	AVERAGE NEGATIVE FINDINGS PER REVIEW
Environmental Modification	EMO	15	30	2.0
Specialized Medical Equipment	ATC	16	27	1.7
Vehicle Modification	VMO	6	7	1.2
Personal Emergency Response System	PRS	8	6	0.8

Table 6: Indicators and Probes most unmet for providers of non-direct care services

Most Unmet Indicators and Probes

III.A.2 Criminal background checks: Does the provider's employee or agent files contain evidence of the criminal background checks required in 460 IAC and DDRS policies? DDRS Policy: Personnel Records, eff. 2-28-11

Percent of Reviews Unmet by Service Type

EMO (EMOI & EMOM)	ATC (ATCH & ATCM)	VMO (VMOD & VMOM)	PRS (PRSI & PRSM)
73.3%	**62.5%**	**50.0%**	**25.0%**

Probes Most Likely Unmet for Non-Direct Care Services

Each of the provider's employee/agent files should have evidence that a criminal history search was obtained from every state (including the Indiana Central Repository) and county, wherever located, in which an owner, officer, director, employee, contractor, subcontractor or agent involved in the management, administration, or provision of services has resided and/or worked during the 3 years before the criminal history investigation was requested.

A criminal background check that verifies each employee is free of felony convictions that include all felonies noted in 460 IAC and DDRS Policies and Procedures.

II.A.10 Conflicts of Interest & Ethics: Does the provider have a conflict of interest and code of ethics policy that meets 460 IAC and DDRS requirements?

Percent of Reviews Unmet by Service Type

EMO (EMOI & EMOM)	ATC (ATCH & ATCM)	VMO (VMOD & VMOM)	PRS (PRSI & PRSM)
53.3%	**62.5%**	**33.3%**	**37.5%**

Probes Most Likely Unmet for Non-Direct Care Services

The provider's code of ethics requires all owners, directors, officers, employees, contractors, subcontractors or agents to comply with all aspects of 460 IAC and DDRS Policies and Procedures.

Require disclosure of possible conflicts of interest by all of the provider's owners, directors, officers, employees, contractors, subcontractors or agents

Provider Compliance Reviews (Cont.)

Independent of the services delivered, all providers must assure proper criminal history checks are conducted through both the Indiana Central Repository as well as the counties that all prospective employees have resided or worked in during the three years prior to the date the check was requested. If a check was not conducted before hire, providers must conduct the check to assure compliance with both DDRS Policies and Procedures and Indiana Administrative Code.

Providers of Environmental Modification and Specialized Medical Equipment received more negative findings relative to their conflict of interest and ethics policies. Providers are reminded that policies and ethical practice is expected of those delivering all waiver services.

Complaint Investigations

Information on how to file a complaint and the *Complaint Investigation Process* is located on the BQIS Website at http://www.in.gov/fssa/ddrs/2635.htm.

There were a total of 562 specific allegations contained within the 167 complaints reported from 10/01/2011 through 09/30/2012. This resulted in an average of 3.4 specific allegations per complaint investigation. Further, these complaints were associated with 62 providers. Of complaint investigations, 56.0% of specific allegations have been substantiated.

While the percent of specific allegations being substantiated is lower for this most recent quarterly period (07/01/2012 – 09/30/2012), it should be noted that these results are only tied to completed investigations. For the 9.9% that remain under investigation during this period, additional issues are currently being investigated and corrective actions verified (Table 7).

Table 7: Complaint data over 12 month period (10/01/2011 – 09/30/2012).

	10/1 – 12/31/11	1/1 – 3/31/12	4/1 – 6/30/12	7/1 – 9/30/12
Number of Complaints	34	40	53	40
Number of Issues	131	144	145	142
% of Issues Substantiated	53.4%	56.3%	61.4%	52.3%

Aggregation and Analysis of Findings (Complaint Investigations and CERT Reviews)

The following is a review of findings from provider compliance reviews and complaint investigations conducted during the period 10/01/2011 through 09/30/2012. These data will be grouped into the following general categories with corresponding headings for the remainder of this communication:

- Provider Qualifications
- Abuse, Neglect, Exploitation
- Ethics
- Risk Plans
- Behavioral Services
- Lack of Documentation
- Transitions
- Conflict of Interest
- Consumer Finances
- Habilitation Services and Plan
- Medical Services
- Environment

Provider Qualifications

Specific allegations in the area of provider qualifications made up 7.8% of the total allegations during this period of time. Of these investigated, 83.3% resulted in substantiation (Table 8).

Table 8: Provider Qualification, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO PROVIDER QUALIFICATIONS	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Documentation of Training	37	84.1%	86.7%
Criminal Background Checks	3	6.8%	33.3%
Area Specific Provider Policy	2	4.5%	100.0%
Incomplete Employee Files	1	2.3%	100.0%
Quality Assurance System	1	2.3%	Under Investigation

*Some allegations contained in this report are still under investigation.

In the area of **staff training** (and related documentation), specific allegations were made 37 times during this annual period making it the most reported provider qualification complaint. Further, verification of deficient training was substantiated in 86.7% of these allegations. The following list identifies a sample of specific subject matter of substantiated allegations in the area of training:

- Provider orientation
- Individual specific training, inclusive of high risk and behavior support plans
- Annual training in the areas of respecting the dignity of an individual, protecting an individual from abuse, neglect and exploitation, and incident reporting
- Medication administration

When examining the provider compliance reviews that were conducted 10/01/2011 through 09/30/2012, 41% of providers surveyed did not have a written training procedure that contained all the items required in 460 IAC and DDRS-related policies. During CERT reviews, 10% of employee files (minimum 2, maximum 20) are selected for review. Based on this examination, it was determined that 39% of providers reviewed with the CERT were found to not have documentation supporting that staff were properly trained.

Proper documentation requires the following components: (A) Subject matter included in each training session; (B) The date and time of each training session; (C) The name of the person or persons conducting each training session; (D) Documentation of the employee's or agent's attendance at each training session, signed by: (i) the employee or agent; and (ii) the trainer. 460 IAC 6-15-2 Maintenance of Personnel Files.

Transitions

Specific allegations in the area of transitions made up 1.6% of the total allegations during this period of time. Of these investigated, 50.0% resulted in substantiation (Table 9).

Table 9: Transitions, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO TRANSITIONS	PERCENT OF ALLEGATIONS SUBSTANTIATED*
60 Days Notice	5	55.5%	50.0%
Lapse of Service	3	33.3%	66.7%
Transfer of Records	1	11.1%	0.0%

*Some allegations contained in this report are still under investigation.

Transitions (Cont.)

There were two substantiated cases where providers did not provide a waiver Participant with the required **60 days notice** prior to discontinuing service delivery. Upon examination of provider policies during CERT reviews conducted during this annual period, 32 providers (24.1% of those reviewed) did not have all the required components incorporated into a written policy or procedure. This included the need to continue providing services to the individual until a new provider providing similar services is in place (460 IAC 6-9-7 (b)(2)).

In addition to being required by 460 IAC 6-9-7, sufficient notice is necessary to ensure enough time to secure another provider and transfer records.

Abuse, Neglect, and Exploitation

Specific allegations in the area of abuse, neglect and exploitation made up 16.0% of the total allegations during this period of time. Of these investigated, 62.9% resulted in substantiation (Table 10). There were a substantial number of **Incidents** that were not properly reported (84.6% of allegations were substantiated in this area). Without being reported and properly addressed, a person may be at increased risk of abuse, neglect, and/or exploitation.

In the area of **Alleged Abuse, Neglect and Exploitation**, allegations have been made 33 times since October 1, 2011. While less than 40% of allegations in this area have been substantiated, this still presents a significant concern related to client safety. The following list identifies a sample of specific subject matters of the substantiated allegations under the area of Alleged Neglect:

- Neglect by leaving individuals who require close supervision unattended
- Instances of physical abuse perpetrated by staff

Table 10: Abuse, Neglect, and Exploitation, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO ABUSE, NEGLECT AND EXPLOITATION	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Incident Not Reported	37	41.1%	84.6%
Issue of Abuse, Neglect, Exploitation	33	36.7%	37.0%
Issue with Internal Investigation	18	20.0%	73.3%
Area Specific Provider Policy	2	2.2%	50.0%

*Some allegations contained in this report are still under investigation.

Providers are required to train their staff on identifying and preventing abuse, neglect and exploitation. Of the CERT reviews conducted, it was clear that the majority of providers make certain training in this area is complete (78.2%). For the 29 providers (out of 133 reviewed) found without sufficiently trained staff, remediation steps were taken and providers brought back into compliance.

Following each allegation, providers are required to suspend the alleged perpetrator (if staff) pending results from the investigation. While this occurs with the greatest frequency for allegations for emotional, verbal and physical abuse, there are other instances where this does not occur (Table 11). This places waiver Participants at increased risk of future occurrence. When comparing across the last two quarterly periods, providers are suspending staff with increased frequency.

Abuse, Neglect, and Exploitation (Cont.)

Table 11: Percentage of Allegations When Staff (*alleged perpetrator*) Was Suspended Pending the Outcome of the Investigation for People Receiving Waiver Services (*taken from incident data*).

Description - % of Allegations when Staff was Suspended	Jul-12	Aug-12	Sep-12	Average Last Quarter (4/1 – 6/30)	Average This Quarter (7/1 – 9/30)
Allegations of Abuse, Emotional/Verbal	96.4%	89.4%	95.6%	87.3%	93.8%
Allegations of Abuse, Physical	89.5%	94.2%	92.5%	86.6%	92.1%
Allegations of Exploitation (sexual, financial, other)	93.8%	81.3%	89.7%	84.7%	88.3%
Allegations of Abuse, Sexual	60.0%	100.0%	71.4%	81.0%	77.1%
Allegations of Neglect	83.5%	88.6%	90.3%	78.1%	87.5%

Providers are also required to conduct an **internal investigation**. Of the allegations about inadequate internal investigation, 73.3% were substantiated. For guidance, providers should refer to the DDRS policy on Mandatory Components of an Investigation (http://www.in.gov/fssa/files/Mandatory_Components_of_an_Investigation.pdf).

Conflict of Interest

Specific allegations in the area of conflicts of interest made up 1.2% of the total allegations during this period of time. Of these investigated, 42.9% resulted in substantiation (Table 12).

Table 12: Conflict of Interest, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO A CONFLICT OF INTEREST	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Financial Conflicts	6	85.7%	33.3%
Area Specific Provider Policy	1	14.3%	100.0%

*Some allegations contained in this report are still under investigation.

Of the allegations that were associated with **financial conflicts**, four were associated with provider employees renting property to consumers that they support through a waiver. Upon further review and consideration by DDRS, it has been determined that such an arrangement may be acceptable as long as the waiver Participant benefits.

In cases where a provider employee/agent rents property to an individual they support through one of the waivers, it is important that any perceived conflict be minimized. This can be done by setting the rent within the range of comparable properties in a particular area, and through disclosure of this fact to relevant parties (e.g., Participant, guardian, case manager, etc.).

Providers are required to have a policy that includes the following components noted in the DDRS Policy on Provider Conflict of Interest (effective 02/28/2012):

- State that situations involving conflicts of interest by an owner, director, agent, employee, contractor, subcontractor or officer performing any management, administrative or direct service to an individual shall be avoided.
- Require disclosure of possible conflicts of interest by all of the provider's owners, directors, officers, employees, contractors, subcontractors or agents.

Of the 133 providers reviewed with the CERT during this annual period, 40 (30.1%) did not have an acceptable policy in this area.

Ethics

Specific allegations in the area of ethics made up 14.6% of the total allegations during this period of time. Of these investigated, 53.0% resulted in substantiation (Table 13).

Table 13: Ethics, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO ETHICS	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Rights	27	32.5%	63.6%
Communication (e.g., IST, APS, etc)	25	30.1%	45.0%
Provider Billing	6	7.2%	50.0%
Provider Complaint System	6	7.2%	83.3%
Hours Worked	5	6.0%	66.7%
HIPAA	5	6.0%	50.0%
Area Specific Provider Policy	4	4.8%	25.0%
Whistleblower	2	2.4%	0.0%
Solicitation	1	1.2%	0.0%
Dignity and Respect	1	1.2%	0.0%

*Some allegations contained in this report are still under investigation.

In this area, concerns specific to client **rights** captured the most number of allegations (32.5%). Noted areas of concern included a restriction without proper review through a Human Rights Committee (in the area of behavior support plans), and providers locking up personal items, food, and limiting communication (e.g., phone, mail). Upon review of the CERT reviews conducted from 10/01/2011 through 09/30/2012, a number of concerns were identified. These included:

- 33.1% of providers did not have a policy stating that they prohibit emotional and verbal abuse
- 17.3% of providers did not have a policy stating that they prohibited violating an individual's rights
- 12.0% of providers did not have a policy stating that the Participant has the right to retain and use appropriate personal possessions and clothing
- 23.3% of providers had evidence of staff not properly trained in the area of rights: respecting the dignity of an individual

Allegations in the area of poor or lack of **communication** were reported 25 times during this annual period. Of these allegations, 45.0% have been substantiated resulting in the need for provider remediation. Instances of Abuse, Neglect, Allegation and Death must be communicated to Adult Protective Services (APS) or Child Protective Services (CPS). Of the allegations specific to this area, three pertained to incidents not being properly reported to one of these agencies. Other areas of breakdown appeared between the provider and a family member or guardian as well as between providers.

Communication with team members is essential for continuity of care, particularly across different providers and settings. It is also required that particular incidents (ANE) be reported to APS/CPS as well as collaborate with the individual's other service providers to provide services to the individual consistent with the individual's ISP (460 IAC 6-10-7(a)).

While results from a complaint investigation can result in negative findings that require a provider to remediate through policy and training updates, two investigations that identified **improper billing** of waiver services have resulted in the need for financial payback as well as further investigation by other entities. It is imperative that providers maintain proper documentation and submit invoices for only those hours worked and properly documented. Otherwise, the provider may expose themselves to risk of a further Medicaid fraud investigation.

Consumer Finances

Specific allegations in the area of consumer finances made up 8.0% of the total allegations during this period of time. Of these investigated, 60.5% resulted in substantiation (Table 14).

Table 14: Consumer Finances, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO CONSUMER FINANCES	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Financial Mismanagement	31	68.9%	70.4%
Financial Exploitation	9	20.0%	42.9%
Theft	5	11.1%	25.0%

*Some allegations contained in this report are still under investigation.

Financial Mismanagement was a specific allegation in 31 separate complaints, capturing the majority of allegations within the area of Consumer Finances (68.9%). Upon further examination, allegations were primarily associated with the following:

- Checkbooks and bank statements not being reconciled
- Payment of utilities for a previous residence
- Exchange of funds between Participants and a comingling of housemate funds
- Improper use of food stamps
- Fees associated with late payment and disconnections

With 70.4% of allegations involving financial mismanagement being substantiated, providers and representative payees need to maintain better records and assure that the individual's finances are only being spent in their favor. This includes maintenance of receipts, balancing checkbooks, and splitting the cost of utilities in a fair and equitable manner.

In some cases, the allegation rose to the level of **exploitation**. This included attempts to secure credit cards in an individual's name (without consent from guardian or consumer), and the purchase of items not used by the individual. While a low percent of allegations of **theft** have been substantiated (25%), providers need to assure a periodic inventory of a Participant's property is conducted. This will facilitate an internal investigation into an allegation of theft.

If the provider is responsible for management of an individual's funds (e.g., has been appointed representative payee), they are required to, (1) maintain separate accounts for each individual, (2) provide monthly account balances and records of transactions to the individual and, if applicable, the individual's legal representative, and (3) inform the individual or the individual's legal representative, if applicable, that the payee is required by law to spend the individual's funds only for the needs of the individual (460 IAC 6-24-3 Management of Individual's Financial Resources).

Risk Plans

Specific allegations in the area of risk plans made up 1.1% of the total allegations during this period of time. Of these investigated, 100.0% resulted in substantiation (Table 15).

Table 15: Risk Plans, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO RISK PLANS	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Risk Plans Not Followed/Implemented	5	83.3%	100.0%
Risk Plans Not Appropriate	1	16.7%	100.0%

*Some allegations contained in this report are still under investigation.

Risk Plans (Cont.)

Allegations in this area were predominantly associated with a lack of **implementation of risk plans**. Risk plans that were not followed included dining plans, choking prevention plans, and fall risk plans. Of these allegations, 100% were found to be substantiated.

Given the increased risk of injury or even mortality, it is imperative that all staff working with someone with elevated risks be trained in their plans and proper implementation monitored.

For those providers reviewed during this annual period of time with the CERT that were responsible for providing health supports or health coordination, 19 did not have a policy that assured inclusion of all risk plans and documentation within the Participant's record. The majority of providers (91.7%) provided the necessary training in the area of health and wellness to all of their employees providing direct support. While this is very important for them to identify changes in health status, it does not replace the need for individual specific training on risk plans.

Habilitation Services and Plan

Specific allegations in the area of habilitation services and plan made up 9.1% of the total allegations during this period of time. Of these investigated, 73.2% resulted in substantiation (Table 16).

Table 16: Habilitation Services and Plan, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO HABILITATION SERVICES AND PLAN	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Lack of Proper Staffing	25	49.0%	68.4%
Failure to Follow ISP	21	41.2%	72.2%
Unhappy with Services	5	9.8%	100.0%

*Some allegations contained in this report are still under investigation.

Specific allegations in this area are fairly evenly split between a lack of proper staffing and a failure to follow a person's individualized service plan. In the area of **staffing**, noted concerns included:

- Proper staffing for needed supervision (e.g., 1:1 Staffing) not provided
- Based on the number of waiver Participants in a home, allegation that their needs cannot be properly met
- Inadequate staffing (e.g., one staff for too many Participants, not sufficient staff to meet medical needs, etc.)

For allegations related to the **ISP not being followed**, reports included things such as:

- Community habilitation services were not provided, lack of community activities
- One provider encouraging the team and waiver Participant to not follow another provider's plan
- Residential habilitation hours not provided based on the individual service plan and the cost comparison budget
- Proper support in the area of personal hygiene not provided per the Participants documented needs

With the relatively high percent of substantiated allegations in the areas of staffing and ISP implementation, providers should ensure that they have sufficient onsite monitoring to capture times when this may be occurring. It is also recommended that onsite visits be conducted during varying hours to identify possible issues across shifts.

Behavioral Services

Specific allegations in the area of behavioral services made up 6.2% of the total allegations during this period of time. Of these investigated, 59.4% resulted in substantiation (Table 17).

Table 17: Behavioral Services, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO BEHAVIORAL SERVICES	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Inadequate Behavioral Support	25	71.4%	56.5%
BSP Not Implemented/Followed	7	20.0%	66.7%
Use of Prohibited Intervention	3	8.6%	66.7%

*Some allegations contained in this report are still under investigation.

After providers of residential habilitation services, behavior management providers were involved in the most complaint investigations. The majority of allegations in this area pertained to inadequate behavioral supports (71.4%). These included reports of:

- Behavior support plans not being updated as needed, or not updated within the required time period
- Lack of involvement from the Level 2 Behavior Management provider
- High levels of problem behaviors (e.g., physical aggression, self-injurious behavior) not being addressed
- Injuries and other complications associated with a person's behavior support plan

Lack of supervision by a Level 1 Behavior Management provider (e.g., plan not signed by HSPP) was a noted issue within three separate complaint investigations. As noted in 460 IAC 6-5-4, Level 2 Clinicians are required to be supervised by a Level 1 Clinician. In addition to reviewing and signing off on behavior support plans, this supervision should also include meeting with the Level 2 Clinician and evaluation of program effectiveness.

Of the Behavior Management providers reviewed with the CERT from 10/01/2011 through 09/30/2012, 32 (48.5%) providers of Level 2 and 20 (52.6%) providers of Level 1 Behavior Management services did not have an acceptable policy in the area of behavioral supports. While only 3.4% of all provider types were not found to have a sufficient system to track challenging/target behaviors, the percentage of providers out of compliance increased when proactive strategies were evaluated (9.8%).

Medical Services

Specific allegations in the area of medical services made up 10.7% of the total allegations during this period of time. Of these investigated, 55.6% resulted in substantiation (Table 18).

Table 18: Medical Services, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO MEDICAL SERVICES	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Medical Needs Not Met	40	66.7%	54.8%
Medication Errors	13	21.7%	66.7%
Missed Doctors Appointments	7	11.7%	40.0%

*Some allegations contained in this report are still under investigation.

Medical Services (Cont.)

Within this category, a number of investigations into allegations that a person's **medical needs** were not being met took place 40 times. With 54.8% of allegations being substantiated, there appears to be an elevated risk to a person's health and welfare. Concerns were associated with a number of areas, including:

- Weight loss, feeding and nutrition
- Application of first aide and follow up related to an injury
- Limited evaluation of the effectiveness of medical treatment
- Staff not initiating CPR, and delayed request for emergency support
- Poor communication related to health care coordination
- Physician's orders not being followed

Direct support staff must be properly trained and certified in the areas of CPR and first aid. Upon examination of the CERT reviews conducted during this annual period, 29 (21.8%) did not have all of their required staff properly certified in CPR. In addition, 19 providers (14.3%) were unable to produce documentation that all of their staff was properly trained in basic first aid.

Medication errors were a reported concern in 21 complaint investigations. These included administering a person's medication in an unsafe manner (e.g., on the toilet, while lying down), maintaining old or out of date medication, errors within the Medication Administration Record (MAR), and lack of proper medication administration oversight. All staff who administer medication are required to receive training on administration practice at least every year. Of the 133 providers who received a CERT review during this period, only four (or 3.0%) were found to have staff untrained in this area.

With an average of 437 incidents of medication errors being reported each month, providers must go beyond basic training. It is recommended that providers conduct periodic onsite monitoring of medication passes to evaluate whether their staff are properly administering medication.

Lack of Documentation

Specific allegations in the area of lack of documentation made up 6.6% of the total allegations during this period of time. Of these investigated, 90.0% resulted in substantiation (Table 19).

Table 19: Lack of Documentation, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO THE LACK OF DOCUMENTATION	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Incomplete Documentation	33	89.2%	92.6%
Missing Plans (e.g., ISP, BSP)	4	10.8%	66.7%

*Some allegations contained in this report are still under investigation.

After allegations in the area of risk plans, allegations associated with a lack of proper documentation were those substantiated the most (90.0%). Upon examination of the specific allegations, **missing plans** (e.g., ISP, BSP) only captured a small portion of the issues with **incomplete documentation** accounting for 92.6% of all allegations in this area. Some of the substantiated allegations in this area included:

- Less than 60 days worth of documentation being maintained in the home
- Inadequate documentation of daily activities and services provided
- Inadequate documentation at the site of service delivery
- Allegations involving the falsification of documentation
- Lack of monthly summaries

Lack of Documentation (Cont.)

In addition to maintaining 60 days worth of documentation in the Participants personal file, the following are also required (not an inclusive list): current ISP, BSP (if applicable) photograph, emergency numbers, consent for treatment, systems outlined in the Health Care Coordination policy as indicated for the individual, information about allergies, medical consults, risk plans, and changes in the person's health status. Residential Habilitation providers are the most cited for not maintaining all of this documentation. While this starts with a clear policy delineating what is required to be maintained, monitoring of files for completeness is required to assure a provider's policy has in fact translated into acceptable practice.

Of those providers who received a CERT review from 10/01/2011 through 09/30/2012, 19 providers (54.3% of those reviewed) of Residential Habilitation service were found to have an incomplete policy related to Participants' files at the site of service delivery. The other group that received negative CERT findings in this area were Structured Family Caregiver providers, with seven (53.8% of those reviewed) found to be out of compliance.

Environment

Specific allegations in the area of the environment made up 11.6% of the total allegations during this period of time. Of these investigated, 53.2% resulted in substantiation (Table 20).

Table 20: Environment, Specific Allegations from 10/01/2011 through 09/30/2012

SPECIFIC ALLEGATION	NUMBER OF TIMES INVESTIGATED	PERCENT OF ALLEGATIONS RELATED TO THE ENVIRONMENT	PERCENT OF ALLEGATIONS SUBSTANTIATED*
Safe and Sanitary Environment	35	53.8%	65.5%
Staff Issues (e.g., visitors, drug use, etc.)	16	24.6%	36.4%
Lack of Food or Supplies	14	21.5%	28.6%

*Some allegations contained in this report are still under investigation.

There were three types of allegations that pertained to the environment (i.e., a Participant's home). These included issues with the safety and sanitation of the home, reports of staffing issues in the home (e.g., staff using drugs in the home, staff sleeping in the home, visitors in the home), and reports of a lack of food or other basic supplies in the home. Of these, allegations of an **unsafe or unsanitary environment** were reported with greatest frequency (35 times). With almost 1/3 of these allegations being substantiated, a person's ability to remain in the home in these cases is brought into question. Types of reported safety and sanitation concerns included:

- Presence of animal feces
- Presence of bedbugs that were left untreated
- Presence of mold in the home
- Damaged or missing wheelchair ramps
- Presence of a strong urine smell in the home
- Presence of large holes in the walls and floor
- Excess water temperature in the home
- Damaged plumbing leading to sewage backing up into the home

Taken from incident reports over this annual period of time (for waiver Participants), there were 426 reported incidents that included environmental/structural problems that required relocation of a Participant.

Staffing issues that place a waiver Participant at risk within their home include sleeping on the job, using drugs or alcohol (or coming to work intoxicated) as well as bringing other non-authorized visitors into the home. While fewer than

Environment (Cont.)

40% of these allegations were substantiated, this type of allegation can pose a particular challenge to investigate (e.g., require multiple unannounced visits to the home, routine drug testing, etc.).

For monitoring of staff behavior of this kind, there is no substitute for routine (periodic, but vary the time), unannounced visits to the homes.

Summary

The CERT review includes a thorough evaluation of provider qualifications, provider policies and procedures, employee training in general areas (e.g., abuse, neglect, and exploitation, medication administration, dignity and respect), and a provider's quality assurance and quality improvement system. BQIS is able to go beyond this paper review through their investigation of reported complaints. Taken together, areas noted above should be considered areas of risk that may impact a waiver provider's health and wellness, habilitation, and satisfaction with service delivery. Providers should use this information to evaluate their policies, training and practice in an attempt to minimize this risk.

DDRS is periodically releasing new policies and procedures so it is important that the provider community monitor these changes and adjust their policies and practices accordingly. All providers should sign themselves up to receive communications when new materials have been posted to the DDRS website (http://www.in.gov/fssa/2328.htm).